



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,937	10/21/2003	Luciano A. Gonzales	054034-IUS (34111-0489)	4058

570 7590 09/20/2006

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
----------	--------------

1724

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,937

Applicant(s)

GONZALES ET AL.

Examiner

Ivars C. Cintins

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-33 is/are pending in the application.
- 4a) Of the above claim(s) 9, 11-21, 26-31 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 22-25 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Art Unit: 1724

Applicant's election with traverse of Group I, claims 1-9 and 11-25, in the reply filed on March 20, 2006 is acknowledged. The traversal is on the grounds that the method of claim 26 is simply a method of making the oil containment system of claim 1. This is not found persuasive because the oil containment system of Group I (e.g. claim 1) could still be made by another process, different from that of Group II (e.g. claim 26). For example, this system could be made by a process which merely places the layer of oil adsorbing material on top of the layer of oil absorbing material (see claim 1, lines 5-6), instead of covering (see claim 26, line 6) this oil absorbing material with the oil adsorbing material.

Applicant's election with traverse of the configuration species described in ¶ 0009 of the specification is also acknowledged. The traversal is on the grounds that the Examiner has already conducted an examination of all of the claims, and therefore there would be no burden upon the Examiner to examine all of the configuration species. Again, this argument is not persuasive because Applicant's amendment filed September 19, 2005 requires an additional search, and the additional search required for the non-elected species would constitute a serious burden upon the examiner. In any event, Applicant should note that restriction in an application is proper "at any time before final action" (see 37 CFR § 1.142(a), last sentence).

The requirement is still deemed proper and is therefore made FINAL. Claims 9, 11-21, 26-31 and 33 are withdrawn from further consideration, as being directed to a non-elected invention and/or species

Art Unit: 1724

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-8, 22-25 and 32 are rejected under 35 U.S.C. 102(a) as being anticipated by Gannon et al. (U.S. Patent No. 6,485,639; hereinafter "Gannon"). Gannon discloses an oil containment system comprising a container (i.e. containment basin/tray) **20**, a first layer of oil polymeric oil absorbing material (see col. 2, lines 56-65; and col. 7, line 49) in the container, and additional layers of treatment material above this first layer (see col. 7, lines 6-13), which additional layers contain an oil adsorbing material (i.e. sand or vermiculite; see col. 2, line 1 and col. 4, lines 44-45). This reference device further includes fire retardant material (i.e. stones; see col. 7, line 26) covering the layer of oil adsorbing material, and permeable membranes (see col. 6, line 56; and col. 7, line 23) positioned above and below the oil absorbing material; and this is all that is required by claims 1-8, 22-25 and 32.


Applicant's arguments filed September 19, 2005 have been noted and carefully considered, but no longer appear to be relevant in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is 571-272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at 571-272-1166.

Art Unit: 1724

The centralized facsimile number for the USPTO is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
September 17, 2006